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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,550	11/25/2003	Suen Ching Yan	03-12538	9734
25189	7590	10/18/2005	EXAMINER	
CISLO & THOMAS, LLP 233 WILSHIRE BLVD SUITE 900 SANTA MONICA, CA 90401-1211			HANEY, RICHAE LEE	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/723,550	Applicant(s) YAN, SUEN CHING	
	Examiner Richale L. Haney	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 1 –4 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 5, 7 – 10, 12 – 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park (6,446,266) in view of Durdola (D 380,887) and Goldsmith (US D93,212). Park shows a cap comprising a body having front, back, side portions and a lower peripheral edge, wherein the pack portion includes an inverted "U" shaped opening (Figure 1) capable of passing a ponytail of a wearer; a sweatband including an elastomeric portion attached to the lower edge and spanning the "U" shaped opening (Column 2, lines 60 –63); and gores made from multiaxially stretchable fabric (Column 2, line 42). The device of Park lacks a first and a second ribbon coupled to opposite ends of the inverted U-shaped opening, a body comprising of six gores and an oval shaped visor obliquely coupled generally circumscribing the lower peripheral edge. Durdola teaches a hat comprised of six gores (Figure 3), which includes a first and second ribbon coupled to opposite ends of the inverted U-shaped opening (Figure 1 & 3). The device of Goldsmith teaches a visor with an obliquely coupled (Figure 2) oval

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shaped perimeter that generally circumscribes a lower peripheral edge (Figures 1 and 3). It would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Park by incorporating a first and second ribbon and a six gore body as taught by Durdola and oval shaped visor circumscribing the lower edge to obtain a more secure fit for the wearer by adjusting the length of the ribbons to accommodate various head sizes and providing a greater coverage area to better protect and shade the wearer.

The modified device of Park does not expressly disclose the vision of a first and second ribbon being of the same color as the cap's visor; however, the use of the same or different colors for the various parts of a cap are nothing more than design choice and any color combination would have been understood for aesthetic reasons.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made Park's visor, first and second ribbons out of the same color since this is nothing more than a simple choice of design not affecting the structure of the cap.

4. Claims 6, 11, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Durdola and Goldsmith as applied to claims 1 – 5, 7 – 10, 12 – 14 and 16 above, and further in view of Woehl (5,119,514). The modified device of Park discloses all of the claimed invention except for a body formed from unilaterally stretchable fabric. Woehl teaches a body formed of unilaterally stretchable fabric (Column 2, lines 34-38). It is noted that the claim does not read the entire body must be made from unilaterally stretchable material. It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to further modify Park, Durdola, and Goldsmith by utilizing fabric with a unilateral stretch to form the body as taught by Woehl in order to obtain stretch in the lateral plan to fit a variety of head sizes.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571 -272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richale L. Haney
Patent Examiner
Art Unit 3765
October 13, 2005

RLH


JOHN N. CALVERT
SUPERVISORY PATENT EXAMINER
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